

REMARKS

1. Applicant thanks the Examiner for his findings and conclusions.

5 2. It should be appreciated that Applicant has elected to amend Claim 1 and 7 solely for the purpose of expediting the patent process in a manner consistent with the PTO's Patent Business Goals, 65 Fed. Reg. 54603 (9/8/00). In making such amendments, Applicant has not and does not in any way narrow the scope of protection to which the Applicant considers the
10 invention herein entitled. Rather, Applicant reserves Applicant's right to pursue such protection at a later point in time and merely seeks to pursue protection for the subject matter presented in this submission.

Hilton Davis / Festo Statement

15 The amendments herein were not made for any reason related to patentability. As for Claim 1, changes were implemented to enhance clarity of the claimed invention. Claims 1 and 7 were amended to correct grammatical errors. The foregoing amendments are not related to the pending rejections; all amendments were made for reasons other than patentability.

20 3. Claims 1, 5, 7, and 9-12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. patent no. 5,761,662 (hereinafter *Dasan*) in view of U.S. patent no. 5,724,567 (hereinafter *Rose*).

Claims 1 and 5

25 As to Claim 1, the Applicant respectfully disagrees for several reasons.

The Examiner cites *Dasan* at column 6, lines 1-19 as teaching the step of "providing at least one inspector which includes an inspector library". The section cited by the Examiner is clarified in the three prior lines at column 5,
30 lines 65-67 as a request received from and initiated by a remote server. This

is parsed into its two elements. First, Dasan teaches a remote server making a request. In stark contrast, an inspector is local to the user computer. The specification describes an inspector as being provided at a user location on page 36, lines 6-7 of the application as filed. It is known in the art that remote applications are inherently different than local applications in terms of speed, timely access, depth of access, and trust. Therefore, the local inspector taught by the Applicant is not equivalent to the remote server location of Dasan. Second, Dasan's requests are initiated and received from a server. An inspector is clearly defined in the application on page 30, lines 9 and 32 as being invoked by an application running on the consumer computer. Hence, an inspector is intrinsically initiated by a local application, which is in stark contrast to a remote server initiating an request. Hence, Dasan does not teach an inspector, the inherent physical relationship of the inspector to the computer, or the initiation of an inspector

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Separately, the claimed invention requires an inspector library. Inspector libraries, as defined in the specification as filed at page 29, line 3, are libraries of special purpose executable code. In stark contrast, the cited art of Dasan does not teach or describe an inspector library. Further, since Dasan does not teach an inspector library, no library having executable code could be taught by Dasan.

Combined, Dasan does not teach an inspector, the inherent physical relationship of the inspector to the computer, the initiation of an inspector, or an inspector library. Accordingly, the current rejection of Claim 1 and all claims dependent therefrom under 35 U.S.C. § 103(a) as being unpatentable over Dasan in view of Rose is deemed to be improper.

As to Claim 1, to distinguish the claimed invention from the cited reference more thoroughly, Applicant amends Claim 1 to incorporate the term consumer's to modify the term computer. Support for this is found in the

Application as filed at least at page 30, lines 9-12 and line 32. In view of the amendment to Claim 1, the current rejection of Claim 1 and to all claims dependent therefrom under 35 U.S.C. § 103(a) as being unpatentable over Dasan in view of Rose is deemed to be overcome.

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As to Claim 1, to still further distinguish the claimed invention from the cited reference more thoroughly, Applicant amends Claim 1 to incorporate the phrase special purpose executable code to modify the term inspector library.

10 Support for this is found in the Application as filed at least at page 29, line 3. In view of the amendment to Claim 1, the current rejection of Claim 1 and to all claims dependent therefrom under 35 U.S.C. § 103(a) as being unpatentable over Dasan in view of Rose is deemed to be overcome.

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Claims 7 and 9-11

As to Claim 7, Applicant respectfully disagrees. The Examiner states that "claims 7 and 9-12 have similar limitations as disclosed in claims 1 and 5. Therefore, the similar limitations are disclosed under Dasan-Rose for the same reasons set forth in the rejection of claims 1 and 5". Respectfully, Claim 1 with or without the dependent Claim 5 is not equivalent to independent Claim 7. Claim 7 requires executable code which is invoked as part of a continual relevance evaluation process. In stark contrast, neither Claims 1 or Claim 5 refers to a continual relevance evaluation process. Further, the art cited by the Examiner with respect to Claims 1 and 5 make no mention of executable code. Still further, no art cited by the Examiner in relation to this patent refers to a continual relevance evaluation process or an inspector library containing executable code. Accordingly, the current rejection of Claim 7 and all claims dependent therefrom under 35 U.S.C. § 103(a) as being unpatentable over Dasan in view of Rose is deemed to be improper.

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As to Claim 7, Applicant respectfully disagrees. Claim 7 specifically requires executable code which is invoked as part of a continual relevance evaluation process. Under MPEP 706.02(j), the Examiner is required to identify difference in the claim over the applied references. As the Examiner never
5 addresses the restriction of an executable code which is invoked as part of a continual relevance evaluation process, the Examiner could not have pointed out the differences between the claimed invention and the applied references. Accordingly, the current rejection of Claim 7 and all claims dependent therefrom under 35 U.S.C. § 103(a) as being unpatentable over Dasan in view
10 of Rose is deemed to be improper.

As to Claim 7, Applicant respectfully disagrees. Claim 7 specifically requires executable code which is invoked as part of a continual relevance evaluation process. Under MPEP 706.02(j), the Examiner is required to "properly
15 communicate the basis for a rejection so that the issues can be identified early and the Applicant can be given fair opportunity to reply." The Examiner never communicates the basis of the rejection for the clause referring to an executable code which is invoked as part of a continual relevance evaluation process. No basis for rejection to executable code or a continual relevance evaluation process
20 evaluation process is provided. Accordingly, the current rejection of Claim 7 and all claims dependent therefrom under 35 U.S.C. § 103(a) as being unpatentable over Dasan in view of Rose is deemed to be improper.

Claim 12

25 As to Claim 12, the Applicant respectfully disagrees. As described above for Claim 7, the Examiner states that "claims 7 and 9-12 have similar limitations as disclosed in claims 1 and 5. Therefore, the similar limitations are disclosed under Dasan-Rose for the same reasons set forth in the rejection of claims 1 and 5". Respectfully, Claim 1 with or without dependent Claim 5 is not
30 equivalent to independent Claim 12. Claim 12 requires that the inspector library have associated methods for evaluating subexpressions. Further, Claim 12 requires the inspector library to have executable code. Still further,

Claim 12 requires an inspector dispatcher. In yet another example, Claim 12 requires a relevance determination process. None of the elements of:

- associated methods for evaluating subexpressions;
- 5 • executable code;
- an inspector dispatcher; and
- relevance determination process

are reviewed by the Examiner in his rejection of Claim 12. Further, no
10 relevant sections of Dasan or Rose are cited in relation to these four requirements. Still further, Applicant has found no teachings or suggestion of any of these four points in Dasan or in Rose. Accordingly, the current rejection of Claim 12 under 35 U.S.C. § 103(a) as being unpatentable over Dasan in view of Rose is deemed to be improper.

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4. Respectfully, the Applicant objects to the Examiner making the office action dated May 13, 2005 final. First, no examination of Claim 7 was provided. The Examiner refers to the rejection of Claims 1 and 5 in the
20 rejection of Claim 7. However, Claim 7 is an independent Claim with clauses that do not appear in Claim 1 or in Claim 5. In particular no basis for rejection to the clause executable code is provided and no basis for rejection of the clause a continual relevance evaluation process is provided.

25 Second, no examination of Claim 12 is provided. None of the elements of:

- associated methods for evaluating subexpressions;
- executable code;
- an inspector dispatcher; and

- relevance determination process

are reviewed by the Examiner in his rejection of Claim 12. As stated above, under MPEP 706.02(j), the Examiner is required to "properly communicate the basis for a rejection so that the issues can be identified early and the Applicant can be given fair opportunity to reply." The Applicant has not been given a fair opportunity to reply. Accordingly, the Examiner is earnestly requested to withdraw the status of the Office Action of May 13, 2005 as being final and to make the office action non-final.

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5. In the response dated December 22, 2004, the set of amended claims included new Claims 14-19. Claims 14-19 stand withdrawn by the Examiner as being directed to a non-elected invention. The Examiner reasons that "claims 14-19 ... do not disclose that the inspector performs any of mathematico-logical calculations, executes computational storage algorithms, returns the results of system calls, access the contents of storage devices, and queries devices or remote computers." Respectfully, this is not the correct test. Claim 14 has two clauses. The first is directed toward an inspector dispatcher, which is performing relevance determination. The second clause is to an inspector library that contains executable code, which is invoked by said inspector dispatcher as part of said relevance determination process. Notably, all of the claim requirements of:

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- an inspector dispatcher;
- relevance determination;
- an inspector library;
- executable code; and
- invoked by said inspector dispatcher

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are claim limitations in Claim 12 that was searched as part of the original application. Hence, the new claim does not require a search and is not directed to a non-elected invention. Accordingly, the election requirement and withdrawal of Claims 14-19 by the Examiner is deemed to be improper.

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No election is made by the Applicant as the Examiner withdrew Claims 14-19 of his own accord.

6. Claims 1 and 7 are amended to correct grammatical errors.

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7. New Claims 20 - 34 are added to the application. Support for new Claim 20 is found at least in original Claim 1 and at page 36, lines 6-7 of the application as filed. Support for new Claim 21 is found at least in original Claim 1 and at page 30, lines 9 and 32; and at page 29, lines 1-6. Support for new Claim 22 is found at least at page 29, lines 1-6. Support for new Claim 23 is found at page 6, lines 7-8. Support for new Claim 24 is found at least at page 10, lines 15-17. Support for new Claim 25 is found at least at page 10, lines 15-17 and page 6, line 12. Support for new Claim 26 is found at least at page 19, lines 19-25. Support for new Claim 27 is found at least at page 6, lines 12-13. Support for new Claim 28 is found at least at page 67, lines 28-32; page 69, lines 7-11; page 70, lines 23-31; page 72, lines 1-8; page 73, lines 17-31; page 75, lines 1-8; page 79, lines 20-26; and page 81, lines 9-20. Support for new Claim 29 is found at least at page 17, lines 9-11; page 29, lines 1-6; and in Claims 2 and 14. Support for new Claim 30 is found at least at page 36, lines 3-9 and in Claim 15. Support for new Claims 31 and 32 is found at least at page 64, lines 5-10; Figure 11; and in Claims 16 and 17. Support for new Claim 33 is found at least at page 17, lines 9-11; Figure 11; page 22, lines 10-14; and in Claim 18. Support for new Claim 34 is found at least at page 64, line 1 to page 65, line 6 and in Claim 19. Applicant certifies that no new matter was added by way of the new claims.

CONCLUSION

In view of the above, the Application is deemed to be in allowable condition. Applicant therefore earnestly requests the Examiner to withdraw all rejections, permitting the Application to pass to issue as a United States Patent. The
5 Commissioner is authorized the charge the fee of \$450 for the additional nine (9) claims and the fee of \$400 for the additional two (2) independent claims and any other fees or overpayments that may be due to deposit account 07-1445 (Order no. UNIV0001D2-C. Should the Examiner have any questions concerning the Application, he is urged to contact Applicant's attorney at (650)
10 474-8400.

Respectfully submitted,

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